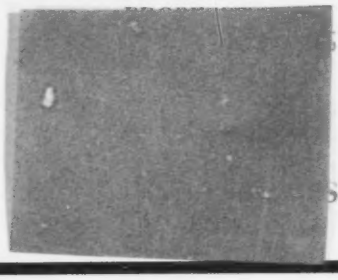
UN

UNITED NATIONS

E

Economic and Social Council



Distr.
GENERAL

E/CN.4/1997/63
11 February 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative on the Commission on Human Rights, Mr. Maurice Copithorne, pursuant to Commission resolution 1996/84 and Economic and Social Council decision 1996/287

CONTENTS

		Paragraphs	Page
EXECUTIVE SUMMARY		1 - 7	3
INTRODUCTION		8 - 14	4
I.	THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES	15 - 18	6
II.	THE STATUS OF WOMEN	19 - 26	7
III.	LEGAL SUBJECTS	27 - 43	9
A.	The death penalty	27 - 29	9
B.	Political prisoners/prisoners of Conscience	30 - 31	10
C.	Religious dissidents	32 - 34	10
D.	Extrajudicial groups	35 - 36	11
E.	Amendments to the Islamic Criminal Code	37 - 38	11
F.	Other legal matters	39 - 43	12

GE.97-10509 (E)

CONTENTS (continued)

		Paragraphs	Page
IV.	FREEDOM OF EXPRESSION	44 - 47	12
V.	THE FATWA AGAINST SALMAN RUSHDIE	48 - 49	13
VI.	THE SITUATION OF THE BAHA'IS	50 - 57	14
VII.	OTHER IMPORTANT MATTERS	58 - 68	15
	A. Human rights institutions in Iran	58 - 59	15
	B. Violence outside the Islamic Republic of Iran	60	16
	C. The situation of certain religious minorities	61 - 65	16
	D. Democracy	66 - 68	17
VIII.	RECOMMENDATIONS	69 - 70	17
XI.	CONCLUSION	71	18
Annex I			19

Executive summary

1. In his earlier reports to the Commission on Human Rights and the General Assembly, the Special Representative has noted that his function is to bring the status of human rights in the Islamic Republic of Iran into clear focus, providing at the same time an indication of areas in which progress is being made and areas in which progress is needed. As he had said before, Iran is a complex and dynamic society and, bearing in mind that space constraints impose a need to be selective, the Special Representative is faced with a considerable challenge. In the Special Representative's view, there is no doubt that progress is being made in a number of sectors, but as of yet not in all.

2. The status of women in Iran has been widely and generally critically discussed. While the legal and practical disabilities faced by women in Iran have been well documented, it is now clear that some change has been effected in recent years and that there are a number of signs that further and substantive improvements may be on the way. The Special Representative would note particularly the positive attitude being displayed by some members of the political elite, and the considerable public discourse under way.

3. The Special Representative notes that there is in Iran a lively debate on many public issues, including the freedom of expression itself. The boundaries of political correctness are being challenged by the media, particularly by journalists and writers. However, in the Special Representative's view, the system is not working in a way that respects the freedom of expression. In particular, the Press Law jury system and the existing arrangements for the approval of book and film scripts need to be made less arbitrary.

4. While there does appear to be an atmosphere of change in the legal system, particularly reflecting the need to articulate legal norms more clearly, there are a number of other areas which remain to be addressed, including the application of the death penalty, allegations that there remain some prisoners of conscience in Iranian jails, the treatment of religious dissidents, the rights of individuals at the pretrial phase and the public incitement by some personages to take extrajudicial action.

5. The Special Representative notes that there has been little progress in the matter of the Fatwa against Salman Rushdie. He also notes the continuing concern about the situation of the Baha'is in Iran and of the situation concerning certain other religious minorities. He urges the Government to implement the outstanding recommendations of the Special Rapporteur on religious intolerance.

6. The Special Representative once again notes the requests of the Government of the Islamic Republic of Iran to the High Commissioner for Human Rights/Centre for Human Rights in Geneva and the Crime Prevention and Criminal Justice Branch in Vienna for technical assistance. He renews his recommendation that sympathetic consideration be given to them.

7. Finally, he believes it particularly important that the Government, both through its own conduct and through public education, actively embrace the concept of tolerance as a vital component of humane governance and a credible human rights system.

Introduction

8. In this his second report to the Commission on Human Rights, the Special Representative tries to capture on paper the current state of human rights in the Islamic Republic of Iran. Given the complex nature of Iranian society and in particular, a form of governance that is far from transparent, this is not an easy task, especially from outside the country. Further, he must exercise selectivity in identifying his areas of focus, given the limitations imposed on the length of such reports. His decisions in this regard, that is, his priorities, may not be shared by everyone inside or outside of Iran but they represent his best efforts within the constraints under which he works.

9. The Special Representative had been in discussion with Iranian officials for some time concerning a second visit to Iran, an objective mentioned in his reports to the Commission at its fifty-second session (E/CN.4/1996/59)and to the General Assembly at its fifty-first session (A/51/479 and Add.1). He was encouraged to think that an invitation would be forthcoming but, on 30 December 1996, he was informed that this was not to be. The oral message delivered to him at that time was as follows:

> "We welcomed the appointment by the Commission on Human Rights of Professor Maurice Copithorne as Special Representative and perceived it as a good opportunity for extensive cooperation. We believed that the Commission would also be able to respond positively and adopt an impartial and objective approach. Based on this perception, we spared no effort to extend our fullest cooperation to the Special Representative as well as the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on religious intolerance by, inter alia, inviting them to visit the country.
>
> "Regrettably, the resolution adopted by vote during the fifty-second session (resolution 1996/84) treated the question in the traditional and subjective manner without an appropriate account of the views of the Special Representative and thematic rapporteurs; the result was detrimental to the renewed confidence and cooperation.
>
> "Although most of the sponsors of the resolution on Iran seemed to be inclined to introduce a more balanced resolution, a few who were pursuing their own political objectives succeeded in obstructing a reasonable consensus resolution. This trend indicates that the approach adopted by the Special Representative is not commensurate to the approach by the Commission under the present circumstances. In fact, for those few States whose politically motivated positions have thus far prevailed at the Commission, the reports of the Special Representative are only relevant in so far as they reinforce their prejudgments and pre-drawn conclusions. Hence, for the present, a further visit to the Islamic Republic of Iran seems to be of little avail.

"We, once again, reiterate our firm conviction to continue our full cooperation with the Special Representative in various forms and believe that trust and confidence can be restored, provided that the Commission reflects on this situation in accordance with its own objectives, as set forth in a large number of its resolutions and decisions."

10. On the occasion that this message was delivered to the Special Representative, he was advised that no invitation for him to visit Iran would be forthcoming at that time. Nevertheless, if the Special Representative wished to make enquiries about particular subjects which he judged relevant to the human rights situation in Iran, every effort would be made to send appropriate experts from Iran to meet with him in Geneva. In the event, however, this was apparently not possible. Nevertheless, the Special Represenative was provided with some written material on subjects of interest to him. The contents have, as appropriate, been incorporated in this report.

11. The Special Representative regrets the decision of the Government of the Islamic Republic not to invite him to visit Iran at this time, that is before the preparation of his second report to the Commission. He indicated in his first report that his short visit to Iran in February 1996 was an introductory one and that a second and longer visit within 12 months was an important element in his approach to the fulfilment of his mandate. The cooperation being accorded on this occasion, that is in the preparation of his second report, is no substitute for a visit to Iran. The Special Representative believes that it is his responsibility, nevertheless, to make the best of the situation and to prepare this report on the basis of all the information otherwise available to him.

12. On occasion, the Special Representative has been criticized for placing too much weight on incidents at the expense of trends. The Special Representative accepts that incidents taken out of context can be misleading and indeed that the media - in any society - tend to give undue weight to the violent, to the outrageous, to the negative, to what they deem newsworthy, at the expense of the prosaic, the positive developments that are occurring in everyday life. The Special Representative accepts the dangers of relying on the media and on disgruntled opponents. Used prudently, however, information from all sources, including these, can be indicative of trends. In the case of Iran, suggestive incidents are too numerous to ignore.

13. The liveliness of mind so characteristic of Iranians ensures that there will be differing opinions on many subjects. And certainly in today's Iran ambiguities abound, permitting the exploitation of what have been called islands of liberty. However, tolerance in politics, in religion and in some areas of lifestyle is another matter. In those sectors, freedom of expression is more tenuous. The concept of a loyal opposition, that is the acceptance of individuals or groups publicly exposing different and sometimes sharply contrary views to those of the Government, has yet to be embraced to a meaningful degree. The Special Representative has reason to believe that too often critics of the status quo are denounced and in some cases imprisoned under charges of common criminal conduct or of disloyalty to Islam or the State. The term civil society is often used to describe a society in which tolerance not only exists but is actively nourished. It is a process, a

fundamental tenet of responsible government that must be actively embraced by government regardless of how unpopular toleration may be from time to time among sections of the public, sometimes large sections. Intolerance in the name of popularism is still intolerance.

14. It is of course the mandate of a Special Representative to catalogue the current state of human rights in the country concerned. There is another optic through which to view human rights, a prospective one; that is to say, as a series of goals to be achieved. The Special Representative believes this optic should not be ignored and accordingly he attempts to identify signs of change, both positive and negative.

I. THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES

15. On 16 April 1996, the Special Representative introduced his first report to the Commission on Human Rights (E/CN.4/1996/59). He returned to Geneva on three occasions, from 28 to 31 May 1996, from 26 to 30 August 1996 and from 29 December 1996 to 8 January 1997 in order to conduct a number of consultations, to participate in the third meeting of special rapporteurs, special representatives, experts and chairmen of working groups of the Commission, which took place from 28 to 30 May 1996, and to draft his interim report to the General Assembly (A/51/479 and Add. 1) and the present report to the Commission. On 2 and 3 September 1996, the Special Representative held conversations in Vienna with senior officials of the Crime Prevention and Criminal Justice Branch. On 15 November 1996, he introduced his interim report to the Third Committee of the General Assembly in New York.

16. While in Geneva and New York, the Special Representative held consultations with representatives of the Islamic Republic of Iran, officials of United Nations High Commissioner for Human Rights/Centre for Human Rights and of the Office of the United Nations High Commissioner for Refugees (UNHCR) and representatives of several non-governmental organizations. He also received representations from interested persons concerning alleged human rights violations in Iran.

17. In seeking to fulfil his mandate, the Special Representative has looked to many sources for information, including the Government of the Islamic Republic of Iran, other Governments, individuals, non-governmental organizations (NGOs) and the Iranian and international media. In Geneva and New York, the Special Representative held interviews with representatives of several NGOs, among them, Amnesty International, Baha'i International Community, Democratic Party of Iranian Kurdistan (DPIK), Human Rights Watch/Middle East, International Educational Development, Inc, League for the Defence of Human Rights in Iran, National Council of Resistance of Iran, Organization for Defending Victims of Violence and Organization of Iranian People's Fedaian (Majority).

18. The correspondence between the Special Representative and the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva during the period October 1996-January 1997 is set out in the annex to the present report. It basically concerns government replies to several requests for information by the Special Representative on individual cases.

II. THE STATUS OF WOMEN

19. In his report to the Commission at its fifty-second session, the Special Representative referred to the underlying debate on the status of women in Muslim countries and Iran in particular. He referred to the distinction made between custom based and religion based norms. The situation of women in Iran has been frequently described in such reports as those of the Special Representative's predecessor, as well as those submitted at the Beijing Conference by women's NGOs from within and outside of Iran. The legal and practical disabilities under which women in Iran live have been clearly outlined. The Special Representative does not consider he has anything to add to these conclusions but instead, will look primarily at the current state of discourse on women in Iran, as well as the prospects for change.

20. Before doing that, however, he wishes to make some more general comments, particularly on the nature of equality. Most societies in early stages of development viewed equality as meaning similar treatment for those similarly situated, the so-called "like" treatment model. This view of equality defined a person by personal characteristics such as gender, race or religion, and accorded each group different categories of rights. These groups were judged to be "unlike", thus justifying differential treatment. Now, however, it is widely accepted that this interpretation of equality served to perpetuate inequality in its substantive sense, that is between persons as human beings, and accordingly denied a full measure of human dignity to the members of the affected groups.

21. There is also the issue of whether equality of rights equals identicality of status, a question the Special Representative noted in his last report. To begin with, it is clear that the projection of a relationship of complementarity between the roles of men and women cannot be substituted for the basic principle of equality. It is also accepted, however, that gender equality may not require identical treatment in every case, and indeed may require differential treatment in order to achieve substantive equality. In short, the goal of substantive equality may require differential treatment in order to assist affected groups to achieve this goal. The Special Representative does not accept the non-identicality argument as a basis for treatment that is in substantive respects discriminatory. To sum up, it is perhaps appropriate to recall the aphorism that the rights of women are not to be viewed as "women's rights", but as "human rights".

22. The Special Representative wishes to reiterate what he said in his first report, i.e. that he believes that the status of women in the Islamic Republic is indeed not equal to that of men in very many ways; there is no doubt that universal norms are involved, and that compliance with such norms can take account of but cannot be excused by considerations of culture.

23. Is this the end of the matter? The Special Representative thinks not. To begin with, he would note the view of some scholars outside of Iran that the status of women has been gradually and quietly improving from that imposed in the aftermath of the Islamic Revolution. Such accounts point to access - for the middle class at least - to tertiary education and to employment, to the attitude towards family planning, and to amendments to the law with regard

to polygyny and divorce. In each of these areas the argument goes, there remain serious problems, but there has at least been movement in the right direction.

24. There are some areas in which the movement appears to be retrogressive, such as that of "improper veiling". There appear to be differences of view, drawing on religion and on culture, as to the appropriateness of norms concerning hijab, and particularly the tolerance with which such norms are applied. There are allegations of harassment by Al-Zahra teams in the way they enforce such norms. In the Special Representative's view some more tolerant regime needs to be introduced, one that would respect non-conforming behaviour.

25. In Iran today, public debate on the status of women seems to be growing more vigorous, particularly as more women speak out, and some measure of change appears to be occurring in the legal regime. There is clearly considerable tension on this issue and it is too early to quantify the progress that is being made. Information in the Iranian and the international press, as well as information supplied to the Special Representative by the Government, offers the following straws in the wind:

(a) The election to the Fifth Majlis of 10 women members, with the possibility of more being elected in the re-elections being held in a number of constituencies;

(b) The election of a woman to a seat in the Fifth Majlis, with the second highest number of votes in the Tehran constituency;

(c) The creation of a Women's Commission by the Fifth Majlis, to consist of 13 members of whom a majority would be women;

(d) The apparently uncontroverted statements, in the context of the current run-up to the presidential elections, that there is no religious impediment in Islam to a woman becoming President of the Republic;

(e) The adoption by the Majlis of amendments to the law concerning Marieh (the marriage payment owed by the husband to the wife), a subject which reportedly has until now been regarded as the exclusive prerogative of clerics;

(f) The adoption of new laws or regulations on family allowances for working and retired women, on the provision of support to working nursing mothers and on extending pre-maternity leave to four months;

(g) Public criticism of the Guardian Council for having no women among its members;

(h) The number of substantive articles appearing in women's magazines, some written by clerics, appearing to advocate significant change in the Government's attitude to women;

(i) Continuing reports that while there may be disagreements among women's groups about their approaches to change, there is a shared irritation at the patriarchal control of Islamic tradition, that is to say the control by men of the authenticity process;

(j) The recent appointment of a woman district mayor in Tehran;

(k) The announcement of a forthcoming bill on civil status and other issues relating to the family and women;

(l) The proposal reported to be before the Cabinet that Iran accede to the Convention on the Elimination of All Forms of Discrimination against Women;

(m) The active discussions in New York between the Iranian authorities and the Division for the Advancement of Women about technical assistance, including participation in a joint workshop in Tehran in February 1997.

26. In conclusion, the Special Representative believes there is a climate for change in Iran concerning the status of women. There is probably considerable opposition to such a prospect both within and outside the Government, and indeed, among those favouring change, human rights concerns may be only one of several considerations. Further, if and when significant change happens, it may be uneven. In sum, Iran has considerable distance to go to bring itself into compliance with international standards, but there are clear signs that this may be a time for progress to be made. The change must be real and the momentum must be sustained.

III. LEGAL SUBJECTS

A. The death penalty

27. The sentence of death and/or its implementation seem to continue at a high rate. Some external reports have asserted that the numbers in 1996 were twice those of 1995. On several occasions the Special Representative has asked for official statistics in this regard, but has so far received no response. Many of the death sentences are reportedly imposed for drug trafficking. Recently, there has been an upsurge in allegations of spying, which can carry the death penalty, as some recent cases have.

28. The imposition of the death penalty in Iran has come in for criticism for its apparent high rate, the range of sometimes ambiguous offences for which it is imposed, the haste with which it is sometimes carried out and the use of public hangings. The Special Representative would note the statement provided to him by Iranian authorities that public execution is demanded by neither religion nor law.

29. It is clear that the present situation with regard to the death penalty is not in accord with international norms in this regard. The Special Representative is concerned that on this subject it does not appear that progress is being made towards recognizing in full measure the right to life.

B. Political prisoners/prisoners of conscience

30. Senior Iranian officials have reiterated that there are no political prisoners in Iran. As the term "political prisoner" appears to be difficult to define in objective terms, the Special Representative prefers the term "prisoners of conscience". This is generally defined as "those who have been detained because of their race, religion, politics, language, beliefs or for similar reasons, and have neither used nor advocated violence". This definition is also open to difficulties of application chiefly because, arguably, it requires a determination of the intent of the person or organization effecting the detention. However, in the view of the Special Representative, certain inferences can and should be drawn where no other credible reason for the detention can be shown to exist.

31. There are widespread allegations that there remain at least some prisoners of conscience in Iranian jails. The Special Representative believes it is important that the Government address seriously allegations in this respect brought to its attention by responsible sources. The Special Representative will continue his existing practice of seeking information in certain cases and expresses the hope that the Government will provide replies which speak to the context of the allegations rather that reiterating the narrow or ambiguous terms of the legal charges.

C. Religious dissidents

32. In his report to the Commission at its fifty-second session and to the General Assembly at its fifty-first session, the Special Representative noted that serious concern for the well-being of a number of clerics was being expressed by interested groups outside the country. The Special Representative published in his reports the names as given to him, and has requested information about some of the cases. The information provided was published as annex VII to document E/CN.4/1996/59. Further developments were reported in paragraphs 32 and 33 of document A/51/479, including some releases. Since that time, it has been reported that Hojatolislam Sheikh Faadhel Faadheli disappeared from his house in Qom in early September 1996. The best estimate the Special Representative has received is that 17 clerics are under detention.

33. The Special Representative has taken note of the information provided by the Government with regard to these detentions. He would observe, however, that all the other reports coming to his attention have identified a common feature, that is, the support of most of these individuals for Grand Ayatollah Shirazi, and the demand of those detaining them that the detainees make a public confession that they and the Grand Ayatollah are cooperating with foreign powers. There are also allegations of physical and mental torture. Two of those detained are reportedly sons of the Grand Ayatollah.

34. The Special Representative believes that notwithstanding the information provided by the Government, there is sufficient credibility to the allegations that further inquiry is warranted. He would therefore recommend that, as the charges are essentially of an ordinary criminal nature, they be transferred to

the jurisdiction of the general courts, that they be heard in public session and the accused be accorded the declared right of all accused to independent legal representation.

D. Extrajudicial groups

35. Most societies have clearly established procedures, often involving police permits, for private groups to conduct their activities in public places. The activity is usually regarded as an exercise of the right to free expression, an important civil right. In most societies there are clearly understood thresholds of acceptable conduct; one is the threat or use of violence, another is taking the law into private hands, in other words vigilantism.

36. In Iran there appear to be a number of groups, private or semi-private in nature, which, in the espousal of particular points of view or causes, do from time to time exceed the threshold of peaceful expression of opinion. The Special Representative continues to receive reports of groups such as the Ansar-e Hizbullah resorting to violence and threats of violence upon private individuals as a means of coercion. There is a clear distinction to be made between activity which can be categorized as peaceful exhortation of various civic virtues, and the use of coercion. The Special Representative notes that, according to the press, one senior cleric continues to incite such conduct even to the point of urging the disregard of the established laws of the country. The Government, for its part, has advised the Special Representative that State agencies do make serious efforts to control excessive activities by such groups. The Special Representative will follow with interest the success of such efforts.

E. Amendments to the Islamic Criminal Code

37. In his previous reports, the Special Representative noted that a number of changes had been made in the criminal regime in Iran, particularly with regard to punishments. The Special Representative had received conflicting information as to the nature of these amendments, but he had nevertheless concluded on an interim basis that they appeared to represent a toughening of criminal sanctions.

38. The Special Representative had hoped to discuss this matter in detail with the Iranian authorities in the course of a visit to Iran, but this opportunity was of course not made available to him. Nevertheless, the Iranian authorities did provide him in January 1997 with the full text in Persian of the amendments, which he is now having translated, and subsequently with a review of the recent changes in English with the comment that the regime has in fact been softened. The Special Representative will comment further on this matter in another report.

F. Other legal matters

The right to seek a pardon, a commutation and an appeal

39. It is not evident to the Special Representative how this right is assured, the procedure to be followed, or the numbers of persons who benefit from such provisions. There is a need for greater transparency in this respect.

Presumption of innocence

40. The Special Representative notes that article 37 of the Constitution of the Islamic Republic of Iran establishes this presumption. There is a need to know how this critical human rights tenet is assured in practice.

Matters of proof

41. More needs to be known about the application of the four types of proof in the Iranian legal system, confession, testimony, oath and "knowledge of the judge". In particular, there is a widely prevalent concern that confessions may often be obtained by coercion, and that the "testimony of righteous men" effectively excludes women and religious minorities.

Torture

42. The use of torture "for the purpose of extracting confessions or gaining information" is prohibited under article 38 of the Constitution. However, there remain widespread allegations that such practices continue. It is important that the Government address these allegations in a substantive manner rather than by simple denial. One procedure open to the Government is to refer such allegations to the Islamic Human Rights Commission, and then publish the conclusions of the Commission.

Cruel and unusual punishment

43. There continue to be Iranian press reports of the application of corporal punishments. Such punishments, including in particular stoning and amputations, are clearly contrary to existing international norms. The Special Representative agrees with those who do not accept the argument that such punishments can be deemed lawful simply because they may have been authorized in a procedurally legitimate manner.

IV. FREEDOM OF EXPRESSION

44. There is in Iran a lively debate about many public issues, including the freedom of expression itself. It is clear that the sometimes implicit, sometimes explicit, boundaries of political correctness are being challenged by the media, particularly by journalists and writers.

45. According to information reaching the Special Representative, the number of disciplinary actions against newspapers and magazines, their editors and publishers, has been increasing. At least five newspapers were closed earlier in 1996 following procedures that were said to have been inconsistent with

Iranian law. In at least some of these cases, the closure order was overturned on appeal. In August, disciplinary procedures were launched against Reza Tehrani, the editor of another publication, Keyan, for publishing false information. The editor of Adineh, Faraj Sarkouhi, reportedly disappeared at Tehran airport for some six weeks. Mr. Sarkouhi and his brother Ishmael were reportedly rearrested on 27 January 1997 and extracts from a letter dated 3 January from Faraj Sarkouhi reported on his mistreatment during his earlier detention. Mohammed Hossein Tahmasbpour, an Azeri language poet, was reported to have disappeared and Dr. Mehdi Parham, a translator and writer, was said to have been arrested.

46. In November, an Iranian monthly reported a speech by Ali Larijani, the head of the radio and television organization, which appeared to espouse tighter control over the media on the grounds that current trends could threaten the destruction of the Islamic Republic and the Islamic State. With regard to the publication of books, the press reported a very senior figure as having stated stated that "the criterion for the rejection of a book, is its degree of harm; prevention of infiltration of corruption into the body and soul of every single citizen of society is an important duty of the Government. Therefore, as far as publication of a book is concerned, the author does not own all the rights but there is a higher right belonging to the masses of readers, and it is on this clear basis that the issue of considering (censorship) of books has become an important necessity". The Special Representative has also noted the statement quoted in the Iranian press in January 1997 of Ali Rabii, a member of the board of a new journalists' association, that its objectives include the defending of "the material and spiritual rights of journalists".

47. The Special Representative acknowledges that the line to be drawn between the security of the State and the interests of the society on the one hand and the right of fair comment on the other is often a matter of controversy. A not infrequent approach is to use the courts or an independent tribunal to determine whether the line has been crossed. Recent reports suggest that in Iran the Press Law jury regime which does provide for appeal to the courts is otherwise working imperfectly, and that the censorship of books and film scripts is arbitrary. Some better regime needs to be found, one that is independent, transparent, predictable of procedure, free of corporal sanctions, in short, credible.

V. THE FATWA AGAINST SALMAN RUSHDIE

48. The Special Representative understands that, while the Government of the Islamic Republic of Iran and the European Union remain in contact on this matter, there is little progress to report.

49. The Special Representative notes that, according to an Iranian press report in September, the Ministry for Foreign Affairs of the Islamic Republic issued a press statement that the Government would not send agents abroad to carry out the fatwa.

VI. THE SITUATION OF THE BAHA'IS

50. The Special Representative has continued to receive reports of cases of grave breaches of the human rights of the Baha'is in Iran and of situations of discrimination against the members of this religious community, including arbitrary detentions, refusal of entry to universities, dismissals from employment and confiscation of properties.

51. According to the information received, 12 Baha'is continue to be held in Iranian prisons allegedly because of their beliefs, among them Mr. Bihnam Mithaqi and Mr. Kayvan Khalajabadi, who were visited by the Special Representative in Evin prison in February 1996. The Special Representative was informed that after his visit the Supreme Court confirmed the death sentences against them. They are reported to have written to the public prosecutor asking for the verdict to be rescinded.

52. The Special Representative was recently informed that the Supreme Court had confirmed the death sentences imposed by the Islamic Revolutionary Courts, on charges that reportedly include apostasy, against Mr. Dhabihu'llah Mahrami and Mr. Musa Talibi. Mr. Mahrami has been moved from the prison of the Islamic Revolutionary Court of Yazd to that of the Security Information Department. Mr. Talibi has been transferred from the prison of Isfahan to Evin prison in Tehran. Mr. Talibi was arrested on 7 June 1994 and was first sentenced to one and a half years' imprisonment because of his membership in the Baha'i community. However, the public prosecutor objected to the lightness of the sentence, stating that no consideration had been given to the fact that he had abandoned Islam and was consequently an apostate. The Special Representative has sent a joint appeal together with the Special Rapporteur on extrajudicial, summary or arbitrary executions to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva concerning the cases of Messrs. Mahrami and Talibi. The charge of apostasy against another Baha'i, Mr. Ramidan'Ali Dhulfaqari, has not been dealt with.

53. During 1996 the following Baha'is were arrested allegedly because of their religious beliefs and remain in detention: Mr. Mansur Haddadan and Mr. Kamyar Ruhi, arrested in Mashhad on 29 February 1996; Mr. Arman Damishqi and Mr. Kurush Dhabihi, arrested in early 1996 in Gohardasht; Mr. Babu'llah Farji, arrested on 7 October 1996 in Qa'im Shahr; Mr. Nasir Iqaniyan, arrested in Simnan on 22 October 1996; Mr. Bihnam Rida'i, arrested also in Simnan on 31 October 1996 and Mr. Nasir Haqtalab, arrested in Mashhad on 31 October 1996. Mr. Bakhshullah Mithaqi, who was supposed to be released in August 1996 according to his sentence, continues to be held in prison. Other Baha'is were arrested and detained for short periods in various cities of the country. The practice of summoning of Baha'is to the Ministry of Intelligence agencies on various pretexts was also reported.

54. Cases of discrimination against Baha'is in the Iranian court system continue to be reported. In addition to the cases mentioned in the Special Representative's interim report (A/51/479, para. 25), the Special Representative was informed that a recent verdict of Branch No. 23 of the Central Public Court of Tehran prevented a Baha'i from receiving her share in the inheritance following the death of her daughter "because she has frankly

admitted to the Court that she is a Baha'i". The Office of the Tehran Civil Court Registry had previously issued a certification of inheritance stating that the only heir of the deceased was her husband "because the other inheritors are Baha'is, and subject to article No. 881 ... of the Civil Code".

55. The Special Representative was informed that the private ownership of property by Baha'is continues to be generally disregarded. In Yazd alone there were reportedly more than 150 cases relating to the confiscation of property during 1996. The majority of the Baha'is in Yazd are now prohibited from conducting any business transactions. In Kashan, a mosque was built on land confiscated from Baha'is. Pharmacies owned by Baha'is in Sari and Qa'im Shahr were reportedly closed down and sealed.

56. The Special Representative considers that the implementation of the recommendations contained in the report submitted to the Commission on Human Rights at its fifty-second session by the Special Rapporteur on the question of religious intolerance on his visit to the Islamic Republic of Iran (E/CN.4/1996/95/Add.2) would constitute an important first step in the improvement of the situation of Iranian Baha'is.

57. Specifically, the recommendations concerned the urgent revision of the death sentences passed on Baha'is and the promulgation of amnesties or other appropriate measures to prevent the enforcement of the penalties imposed; the end of discrimination in the access to education in higher educational establishments or to employment in the administration; and the elimination from passport application forms of the question on religion, to guarantee the freedom of movement (E/CN.4/1996/95/Add.2, paras. 107, 109 and 112).

VII. OTHER IMPORTANT MATTERS

A. Human rights institutions in Iran

58. In response to an enquiry by the Special Representative, the Iranian authorities provided information on the activities of the Islamic Human Rights Commission over the past 10 months. Some of these are set out below:

(i) Pursuing issues related to minorities, including education, property rights, passports, etc.;

(ii) Responding to problems brought to its attention by, inter alia, claimants through the provision of advisory services and pursuing the matters with the judiciary. It has pursued over 1,000 complaints;

(iii) Providing human rights education for officials of the legal system, including judges and prison guards;

(iv) Undertaking a public human rights education programme through the mass media, etc.;

(v) Preparation of a specialized periodical on human rights to be launched shortly;

(vi) Recommending the establishment of a juvenile court for Tehran, which has now been done.

59. The Special Representative has also noted a statement by Hojatolislam Abbasifard, the President of the Commission, in a press interview that the Commission had proposed that all instances declared by international organizations as human rights violations should be collected, examined and reviewed, and a comprehensive report prepared for the authorities concerned for necessary decisions. The Special Representative views this as a positive development and looks forward to discussing the work of the Commission with Hojatolislam Abbasifard in person on the occasion of a visit to Iran.

B. Violence outside the Islamic Republic of Iran

60. Information reaching the Special Representative suggests that extraterritorial violence against Iranians continues. The Special Representative has noted a number of these incidents in his report to the Commission at its fifty-second session and in his interim report to the General Assembly at its fifty-first session. In some of the resulting legal proceedings in foreign courts, a strong connection to the Government of the Islamic Republic is being asserted; the Government of the Islamic Republic denies involvement in any of these incidents.

C. The situation of certain religious minorities

61. The Special Representative has received information that suggests the leaders of certain religious minority groups are under pressure. They include Sunni clerics of Baluchi ethnicity, some of whom appear to have died under suspicious circumstances. Iranian officials note that Sistan-Baluchistan is beset by drug trafficking. The most recent case brought to the Special Representative's attention was that of Abdol-Aziz Kazemi Vajd, whose body was found on 5 November 1996 outside of Zahedan.

62. In western Iran, Molla Mohammad Rabiei, a Sunni cleric in Kermanshah is reported to have died in circumstances that precipitated demonstrations which led to deaths and a significant number of arrests. The Iranian authorities advised the Special Representative that an autopsy had concluded the death of Rabiei was the result of a heart attack (see annex).

63. With regard to other religious groups, the body of a Protestant clergyman, Mohammad Bagher Yussefi, was found in suspicious circumstances in Mazandaran. The Iranian authorities advised the Special Representative that an investigation had concluded that the death was a suicide (see annex).

64. The Special Representative addresses the situation of the Baha'is in a separate section of this report (see sect. VI above).

65. The Special Representative has in earlier reports referred to the report of the Special Rapporteur on the question of religious intolerance of 9 February 1996 (E/CN.4/1996/95/Add.2) and in particular the Special Rapporteur's recommendations. The Special Representative calls upon the Government and the Islamic Human Rights Commission to address this situation with an urgency that reflects its seriousness.

D. Democracy

66. In his interim report to the General Assembly, the Special Representative noted that the Fifth Majlis election results had been annulled by the Guardian Council in a number of constituencies. Fresh elections are being held in 22 constituencies on 7 February 1997. Three hundred persons filed nomination papers.

67. The Special Representative is informed that, in accordance with the Constitution, there will be an election for President of the Islamic Republic in 1997, probably in June. The term is four years and there is a limit of two terms. The presidential election law lays out the requisite qualifications of the candidates, provides that the Guardian Council will monitor all aspects of the election, and provides for the establishment of a government commission to ensure equal access for all candidates to public facilities.

68. According to the press, several candidates have declared themselves and others are expected to do so. The Secretary-General of the Freedom Movement of Iran is reported to have stated that that party would participate in the elections.

VIII. RECOMMENDATIONS

69. At various places in this report, the Special Representative has recommended certain measures to strengthen the enjoyment of human rights in the Islamic Republic of Iran. Some of these are reiterated below in summary form.

70. The Special Representative recommends that:

(a) The Government takes a leadership role in effecting change in public attitudes to the status of women in Iran, and to change in the legal regime that will lead to substantive and accelerating improvement in the status of women.

(b) The charges against a number of Shia clerics be transferred to the general courts, that they be heard in public session and that the accused be accorded the declared right of all accused to independent legal representation.

(c) The press law regime, as well as that applicable to books and movie scripts, be reviewed as a matter of priority to introduce greater certainty and transparency, and to ensure its independence.

(d) As there continues to be doubt about the security of certain religious minorities in Iran, there needs to be urgent attention paid to the 1996 recommendations of the Special Rapporteur on the question of religious intolerance.

(e) Accelerated consideration be given to Iranian requests for international technical assistance in several areas, as recommended by the Special Representative in earlier reports.

IX. CONCLUSION

71. The Special Representative still believes Iran to be a dynamic society in which, on many subjects, a wide variety of views are held and, to varying degrees, are tolerated by the Government when expressed publicly. Nevertheless, there is no doubt in the Special Representative's mind that violations of generally accepted human rights norms are occurring in Iran and that in some cases, by act of commission or omission, the Government must bear responsibility for them. Some believe that progress is being made in this regard and the Special Representative has tried to highlight some of the areas in which this may be the case. Iranian authorities are quick to point to the debilitating impact on Iran of the eight-year war and of the influx of Afghan refugees. The implication is that, taking these factors into account, Iran is in fact making good progress in the field of human rights. However, the impression remains that the Government seems to believe that State and government security have precluded a more active promotion of human rights. It is not for a special representative to judge a Government's perception of security considerations, but it is his mandate to point out, as is the case in Iran, that human rights, having been left behind, now require urgent and sustained attention.

Annex I

CORRESPONDENCE BETWEEN THE PERMANENT REPRESENTATIVE OF THE ISLAMIC REPUBLIC OF IRAN TO THE UNITED NATIONS OFFICE IN GENEVA AND THE SPECIAL REPRESENTATIVE

1. Pursuant to several requests for information from the Special Representative concerning individual cases, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva sent the following letters to the Special Representative.

2. By a letter dated 22 October 1996, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva replied to a letter from the Special Representative dated 24 July 1996 as follows:

"Referring to your letter dated 24 July 1996, I would like to draw your kind attention to the following information received from Tehran:

"The charges of the Zendedel band, in acting against the national security of the country, are as follows:

(a) Establishing, leading and collaborating in a network for embezzlement, bribery, fraud and plundering public properties;

(b) Collaborating in smuggling of people with false documents;

(c) Active participation in channelling of classified military information to foreigners, under the disguise of military contracts;

(d) Collaborating and participating in forging various documents, including property registration documents, ID cards, marriage certificates, letters of proxy, etc;

(e) Forging signatures as well as misappropriation of forged documents.

After due process of law, the preliminary court found him guilty and he was sentenced to death. At present Mr. Zendedel's case, has been sent to the Supreme Court for review."

3. The Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva, by means of a letter dated 21 January 1997, replied to a second letter from the Special Representative, dated 7 January 1997 concerning this case. The letter read as follows:

"With reference to your letter dated 7 January 1997, I would like to provide you with the following information received from authorities in Tehran:

"Taking into account the relevant international instruments and in compliance with due process of law, the Judiciary has taken all necessary actions to ensure that the defendants in the Zendedel case

would benefit from all safeguards and get a fair trial. In fact prolongation of the legal proceedings is but a proof of this conviction."

4. In response to a letter from the Special Representative dated 19 July 1996 concerning the possible execution of Mr. Rahnam Radjabi Hamvand, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva, by means of a letter dated 22 October 1996, informed the Special Representative of the following:

"Referring to your letter dated 19 July 1996, I would like to provide you with the following information received from Tehran:

"Mr. Rahman Radjaby Hamvand was arrested on charges of active membership in an armed terrorist group, involvement in assassination of civilian individuals, robbery and creating an atmosphere of terror in Kurdestan Province. After due process of law, he was sentenced to death in accordance with article 186 of the Islamic Penal Law. The death sentence was confirmed by the Supreme Court and given the magnitude of his crimes his appeal for clemency was not accepted. Accordingly, on 29 July 1996, the sentence was carried out in Uromieh Prison."

5. The Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva, by means of a letter dated 22 October 1996, replied to the Special Representative's letter of 19 April 1996 concerning the alleged arbitrary arrest of Mrs. Ashrafossadat Mir-Hosseini, as follows:

"Referring to your letter dated 19 April 1996, I would like to draw your kind attention to the following information received from Tehran:

"Ms. Ashrafossadat Mir-Hosseini was arrested with a warrant issued by the court on charges of establishing a corruption centre, where she was serving alcohol and drugs.

"After several days in detention, she was released on bail."

6. On 12 December 1996, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva sent a letter to the Special Representative, which read as follows:

"(a) All allegations about Mr. Shahram Sepehri-Fard are categorically denied. He, a conscript serving in prison, was arrested on 11 July 1996 on charges of immoral behaviour and maltreatment of prisoners. After due process of law, the court found him guilty. He was later released on 14 August 1996.

"(b) Mr. Yasoubadin Rastaghari was arrested on charges of acting against national security and public order, and disinformation. After due process of law, he was found guilty and sentenced to ten years of banishment. He was later pardoned and released. Committing the same offences, he was again arrested and sentenced to five years of

banishment in Yazd. He then left Yazd without giving prior notice to the relevant authorities, for which he was sentenced by the court to two years of imprisonment. At present, he is serving his term."

7. The Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva, by means of a letter dated 29 December 1996, transmitted the following information:

"On 28 September 1996, Pastor Mohammad Bagher Yussefi (Ravanbakhsh) was found hanging from a tree in Shirgah Road in Mazandaran Province.

"His corpse was sent to Mazandaran Forensic Department for autopsy. In accordance with the autopsy report, confirmed also by Tehran Forensic Department, he died as a result of suffocation.

"The police found a letter on him stating that, due to family problems, he had decided to commit suicide and no one was responsible for his death. The authenticity of his handwriting was confirmed by his wife and the experts.

"The police also concluded that the letter had been written by him."

8. By letter dated 6 January 1997, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva transmitted the following information to the Special Representative concerning the death of Mr. Ahmad Mir Alaee:

"Mr. Ahmad Mir Alaee, 53 years old, did not have any previous criminal record. Following his death, his corpse was sent to the Forensic Department of Isfahan Province for autopsy. A thorough examination was carried out on his body. In accordance with the autopsy report, there existed no bruises or any trace of suffocation. A toxicology test was also carried out. The test indicated that there was no trace of poisoning. At the end, taking into account all the findings, the examining doctors concluded that heart failure was the cause of his death.

"Meanwhile, his family attended a special court and stated that regarding his death they are not suspicious of anyone."

9. Pursuant to the Special Representative's request for information concerning Mr. Sepehr Sanjabi, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva sent a letter dated 21 January 1997 to the Special Representative, which read as follows:

"In accordance with the inquiries by the police, the real name of Mr. Sepher Sanjabi is Sattar Zanganeh and he has never been arrested."

10. Lastly, by letter dated 21 January 1997, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva informed the Special Representative of the following:

"In accordance with the autopsy report, Mr. Molla Mohammad Rabiei died as the result of a heart attack. The autopsy was carried out by the Kermanshah Forensic Department and in the presence of representatives of the judiciary, family members, some Sunni physicians and Sunni clergy."

11. The Permanent Representative of the Islamic Republic of Iran to the United Nations Office in Geneva also transmitted to the Special Representative, by letters dated 12 December 1996, 3 January 1997, 9 January 1997 and 10 January 1997, general information concerning the judiciary, political rights and the election laws, the situation of women, the activities of the Islamic Human Rights Commission during 1996 and information on various subjects of relevance to the mandate of the Special Representative. A copy in Persian of the law containing the recent amendments to the Islamic Penal Code was also sent to the Special Representative, by letter dated 6 January 1997.